REMARKS:

Claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 are currently pending in the application. Claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of copending U.S. Application No. 10/940,851. Claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 stand rejected under 35 U.S.C. § 112, second paragraph.

Although the Applicants believe independent claims 30-32 and 36 are directed to patentable subject matter and are in condition for allowance without amendment. The Applicants have amended claims 30-32 and 36 to more particularly point out and distinctly claim the Applicants invention and to expedite prosecution of this Application. By making these amendments, the Applicants make no admission concerning the merits of the Examiner's rejection, and respectfully deny any statement or averment of the Examiner not specifically addressed. Particularly, the Applicants reserve the right to file additional claims in this Application or through a continuation patent application of substantially the same scope of originally filed independent claims 30-32 and 36. No new matter has been added.

The Applicants reiterate here the arguments set forth in the Amendment After Final filed on 29 June 2005, as if fully set forth herein.

NON-STATUTORY DOUBLE PATENTING:

Claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of copending U.S. Application No. 10/940,851. U.S. Application No. 10/940,851, entitled "Optimization Using a Multi-Dimensional Data Model", is a continuation of the subject application.

A Terminal Disclaimer is being filed herewith. The Applicants respectfully submit that this Terminal Disclaimer obviates the non-statutory double patenting rejection. Thus, the Applicants respectfully requests that the rejection of claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 under the judicially created doctrine of obviousness-type double patenting be reconsidered and that claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 be allowed.

REJECTION UNDER 35 U.S.C. § 112:

Claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Specifically, the Office Action maintains that the phrase "that" and "that is" in independent claims 30-32 and 36 renders these claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. (27 July 2005 Office Action, Page 3). In response, the Applicants have amended independent claims 30-32 and 36 to remove the phrase "that" and "that is" in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants do not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 112, as set forth in the Office Action.

The Applicants respectfully submit that amended independent claims 30-32 and 36 are considered to be in full compliance with the requirements of 35 U.S.C. § 112. The Applicants further submit that amended independent claims 30-32 and 36 are in condition for allowance.

With respect to dependent claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28; claims 3, 5, 6, and 8-10 depend from amended independent claim 30, claims 13, 15, 17-19

depend from amended independent claim 31, and claims 23, 24, 26-28 depend from amended independent claim 32. As mentioned above, each of amended independent claims 30-32 and 36 are considered to be in full compliance with the requirements of 35 U.S.C. § 112. Thus, dependent claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28 are considered to be in condition for allowance for at least the reason of depending from an allowable claim. Thus, the Applicants respectfully request that the rejection of claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 under 35 U.S.C. § 112 be reconsidered and that claims 3, 5, 6, 8-10, 13, 15, 17-19, 23, 24, 26-28, 30-32, and 36 be allowed.

CONCLUSION:

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

A Terminal Disclaimer to obviate a provisional double patenting rejection over a pending "reference" application is being filed concurrently herewith along with a Transmittal letter that includes an authorization to charge the Terminal Disclaimer fee of $130.00 to **Deposit Account No. 500777**. Although Applicants believe no additional fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

8/23/05
Date

James E. Walton, Registration No. 47,245
Brian E. Harris, Registration No. 48,383
Steven J. Laureanti, Registration No. 50,274
Daren C. Davis, Registration No. 38,425
Michael Alford, Registration No. 48,707
Law Offices of James E. Walton, P.L.L.C.
1169 N. Burleson Blvd., Suite 107-328
Burleson, Texas 76028
(817) 447-9955 (voice)
(817) 447-9954 (facsimile)
jim@waltonpllc.com (e-mail)

CUSTOMER NO. 53184

ATTORNEYS AND AGENTS FOR APPLICANTS